

# PENACHIO MALARA, LLP

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November 7, 2018

## By Email and Hand Delivery (Electronically filed)

The Hon. Robert D. Drain  
The Hon. Charles L. Brieant Jr.  
Federal Building and United States Courthouse  
300 Quaropas Street  
White Plains, NY 10601-4150

Re: North State Associates – Chapter 11 Case No.: 17-23846

Dear Judge Drain:

I serve as bankruptcy counsel to the North State Associates, the above-referenced Chapter 11 debtor which is a partnership in dissolution. The Debtor's sole business was the ownership of a commercial condominium that was sold under the supervision of this Court. The Debtor's sole asset is the net proceeds of the sale (approximately \$128,706.10).

Enclosed herewith for the Court's consideration for "pre-approval" is a proposed Disclosure Statement for the Debtor's Liquidating Plan as amended. The form of the Disclosure Statement and Plan are substantially the same as those previously approved by the Court in at least one other case with one significant change described below.

The Plan in this case provides that Insider votes are to be counted notwithstanding 11 U.S.C. § 1129(a)(10) (See page 18 of the Disclosure Statement). In proposing that Insider votes be counted, I am relying primarily on *In re United Marine, Inc.*, 197 B.R. 942 (Bankr. S.D. Fla. 1996) which stands generally for the proposition that absent a designation or bad faith, an Insider vote may be counted. Without an Insider vote, confirmation may be problematic because, other than an estimated tax claim of \$3,000.00, there are no other non-Insider creditors. While I considered moving for a 'structured dismissal' as an alternate "exit strategy," it is submitted that a plan makes more sense in winding down this case which implicated highly contentious litigation in other forums.

Ms. Li assigned January 23, 2019 as a hearing date on confirmation.

Thank you for your consideration.

Respectfully,

/s/ Anne Penachio

Anne Penachio